

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

INITIAL STATEMENT OF REASONS

TITLE 13, CALIFORNIA CODE OF REGULATIONS, DIVISION 2, CHAPTER 6
AMEND ARTICLE 3, SECTIONS 1160.3 AND 1160.4

GENERAL HAZARDOUS MATERIALS REGULATIONS (CHP-R-10-01)

PURPOSE OF REGULATORY ACTION

California Vehicle Code (VC) Section 2402 authorizes the Commissioner of the California Highway Patrol (CHP) to make and enforce regulations as necessary to carry out the duties of the CHP. Section 2402.7 VC specifically requires the Commissioner to adopt definitions designated by the United States Department of Transportation relating to hazardous materials, substances, or wastes. Section 2532 authorizes the Department to adopt regulations necessary to administer the provisions of Division 2, Chapter 2.5, Article 4, relative to the issuance of licenses, including but not limited to Hazardous Materials Transportation Licenses. Sections 32000.5, 32002, 34501, and 34501.5 VC allow the CHP to adopt reasonable rules and regulations which are designed to promote the safe operation of vehicles described in Section 34500 VC, including but not limited to those transporting hazardous materials (HM). The adopted regulations are contained in Title 13, California Code of Regulations (13 CCR).

Pursuant to Division 14.1 (commencing with Section 32000) of the VC, the CHP is authorized to inspect and license the motor carriers with special attention directed to the negligent operators or repeat violators. Additionally, the CHP provides additional protection through the licensing of motor carriers transporting HM. This rulemaking adopts changes which clarify HM licensing requirements; permits the Department to license a motor carrier for transportation of HM who has been assigned an unsatisfactory compliance rating for any inspection conducted pursuant to Sections 34501, 34501.12, and 34520, VC under specified conditions; contains non-substantive changes to regulatory language in order to lend further clarity to existing rules; and is promulgated as a result of Assembly Bill 463, Chapter 111, statutes of 2009, and changes to Section 32000.5, VC.

SECTION BY SECTION OVERVIEW

Title 13 CCR, Division 2, Chapter 6 contains the CHP Hazardous Materials Regulations. Article 3, Sections 1160 through 1168, contain General Hazardous Material Regulations.

Article 3. General Hazardous Materials Regulations

Section 1160.3. - Definitions.

Subsection (I) is amended to clarify when a Temporary License to transport hazardous material is null and void. This amendment will specifically outline a Temporary License is null and void when a motor carrier is assigned an unsatisfactory rating by the Department as the result of any inspection conducted pursuant to Sections 34501, 34501.12, or 34520, VC.

Section 1160.4 – General Provisions.

Subsection (g)(1) is amended to codify the cost of a duplicate Hazardous Materials Transportation License. Currently, regulation outlines the cost of a New, Initial, and Renewal license, however, does not contain provisions for the Department to recoup costs associated with the printing and mailing of a duplicate license to transport hazardous materials to a motor carrier who is currently licensed, but has lost or destroyed the original license. This amendment clarifies Section 2503, VC.

Subsection (g)(2)(C) is amended to delete the previous reference to Section 34501.12, VC. This reference was inadvertently limiting and is removed in order to prohibit the CHP from issuing a license to transport hazardous materials to any motor carrier unless all appropriate applications and fees are on file with the Department.

Subsection (g)(2)(D) is amended to remove an existing provision which prohibits the Department from issuing a license to transport hazardous materials to a motor carrier who has been assigned an unsatisfactory compliance rating within the previous three years as the result of an inspection conducted pursuant to Sections 34501, 34501.12, and 34520, VC. In order to clarify the intent of Assembly Bill 463, Chapter 111, Statutes of 2009, which added Section 32000.5(f) to the VC, the Subsection is amended to indicate the Department shall not issue a new or initial license to transport hazardous materials to a motor carrier, subject to Section 34501.12, VC, unless each terminal from which HM carrying vehicles are operated is in compliance with the provisions of Section 34501.12, VC, and is currently rated satisfactory.

Subsection (g)(2)(E) is amended to prohibit unless otherwise provided, the issuance of a license to transport HM to any carrier subject to Section 34501.12, VC who has been assigned an unsatisfactory compliance rating as the result of an inspection conducted pursuant to Section 34501, 34501.12, or 34520, VC, within the previous three years, unless the unsatisfactory rating has been corrected prior to applying for the license.

The amendment clarifies the term “corrected” as used in the Subsection to mean the assignment of a conditional or satisfactory compliance rating, issued by the Department as the result of a reinspection to ensure remedy of any existing unsatisfactory conditions and any conditions for which the previous unsatisfactory compliance rating was issued. Additionally, in order to ensure issuance of the license is not unreasonably hindered, the amendment authorizes the Department to request and requires the motor carrier to provide, documented proof of correction.

Subsection (g)(2)(F) is added in order to accommodate the amendment of Subsection (g)(2)(E). The contents of new Subsection (g)(2)(F) are those of the previous (g)(2)(E) and remain unchanged.

Subsection (g)(3) is amended to properly reflect the provisions of Section 2501, VC. Previously, the Subsection permitted the Department to renew a license to transport hazardous materials when the application and appropriate fees are on file with the Department prior to the expiration of an existing license. Section 2501, VC requires the Department to accept applications for renewal if made within 30-days of the expiration of an existing license and when accompanied by the fee for a new license.

Subsection (g)(3)(A) is added in order to enhance compliance with licensing requirements. The addition will permit the Department to renew a license to transport hazardous materials as outlined in Subsection (g)(3), only if no proof of hazardous materials transportation requiring the license is discovered for any period during which the motor carrier is not properly licensed.

Subsection (g)(4) is amended to include the word “who,” previously missing from the regulation. This omission was inadvertent and the addition is non-substantive. The addition serves to clarify the regulation and enhance readability.

Subsection (g)(7) is amended to clarify the provisions of Section 32000.5(e)(2), VC. The clarification amends language to more clearly specify applicability of the Subsection and adds Sections 34501 and 34520, VC in order to more completely reflect the provisions of Section 32000.5, VC.

STUDIES/RELATED FACTS

The provisions of Assembly Bill 463 became operative January 1, 2010, and permit the Department to issue a new or initial license to transport hazardous materials to a motor carrier who has received an unsatisfactory rating within the previous three years under specified conditions. These amendments are promulgated in order to clarify the provisions of the Bill.

CONSULTATION WITH OFFICIALS

None.

LOCAL MANDATE

These regulations do not impose a new mandate on local agencies or school districts.

IMPACT ON BUSINESS

These regulations affect every motor carrier who directs the transportation of an explosive and any motor carrier who directs the transportation of a hazardous material, who is required to display placards pursuant to Section 27903, and every motor carrier who transports for a fee in excess of 500 pounds of hazardous materials of the type requiring placards pursuant to Section 27903 of the Vehicle Code. All those on the interested party list are notified of proposed changes and given the opportunity for comment. It is assumed that both small and large businesses, as well as industry advocates are included in this group, although the Department does not request nor maintain such data. Nothing in these regulation changes impact businesses that are not already affected.

ALTERNATIVES

The CHP has not identified any alternative, including the no-action alternative, which would be more effective and less burdensome for the purpose for which this action is proposed. Additionally, the CHP has not identified any alternative which would be as effective and less burdensome to affected persons other than the action being proposed.

ECONOMIC IMPACT TO THE STATE

The CHP has determined these regulation amendments will result in:

- No significant compliance cost for persons or businesses directly affected.
- No discernible impact on the level and distribution of costs and prices for large and small businesses.
- No impact on the level of employment in the state.